Supreme Court, U.S.
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No. 92-327

In The

Supreme Court of the United States

October Term, 1992

JACK DAVID KELLY, Individually and
JACK DAVID KELLY, as President/Shareholder of
MAPLE LEAF DEVELOPMENT CORPORATION,

Petitioner,

versus

TREE FARM DEVELOPMENT CORPORATION; EMORY O. WILLIAMS, JR.; GEORGE G. PHILLIPS, JR.; E.D. BOB PIERCE; and THE ESTATE OF ABRAHAM L. PIERCE,

Respondents.

Petition For Writ Of Certiorari To The Supreme Court Of Florida

REPLY TO RESPONDENTS' BRIEF IN OPPOSITION TO THE PETITION FOR CERTIORARI

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REPLY TO ARGUMENT I.

In the Respondents' Brief in Opposition to the Petition for Writ of Certiorari under Argument I., they erroneously represented to this Court that the Order of the Circuit Court of Leon County, Florida, transferring Petitioner's case to another jurisdiction is not final and, therefore, this Court does not have jurisdiction to hear a non-final order.

The order is unquestionably final as to the fundamental rights of Petitioner with regard to what court he can bring his action to set aside the merger. The order *terminated* Petitioner's right to due process, the most fundamental right to have his grievance addressed in the proper court of his choosing. The order not only terminates Petitioner's rights of due process, but has come about through the mislabeling of Petitioner's original Complaint as an action involving real property while ignoring the true fact that the Complaint is an action to set aside a merger of two corporations.

There can be no clearer example of finality than the facts of this case, the termination of Petitioner's constitutional rights. Petitioner has been denied access to the proper court of his choosing. There can be no clearer denial or "Final Judgment or Decree" stripping Petitioner of his rights to due process of law guaranteed by the Fourteenth Amendment.

REPLY TO ARGUMENT II.

In the Respondents' Brief in Opposition to the Petition for Writ of Certiorari under Argument II., they argue that the petition for the writ was not timely filed.

The record clearly reflects that a timely request for extension was requested by Petitioner and it was granted by this Court.

The substance of Respondents' arguments put forth the preposterous position that time should start for filing the petition to the Supreme Court from the date that the State District Court of Appeal renders a final decision, and not the date when the State Supreme Court renders its final decision. This reasoning by Respondents reveals the reckless disregard that Respondents have for allowing a citizen to exercise his rights to have his wrong redressed in the proper court in a timely manner.

If this Court accepts Respondents' argument and/or reasoning, it would be best to change the procedural rules of this Court so that citizens seeking redress of violations committed against them, will know that the time for bringing a Petition for Writ of Certiorari to the United States Supreme Court starts running from the date of the final decision of the State District Court of Appeal, if that court rendered its opinion *"per curiam*, affirmed". This reasoning would further lead to the bypassing of the State's highest court under these factual circumstances which would deny or have the effect of denying that court of its inherit rights under the Constitution to review the District Court of Appeal's decision.

REPLY TO ARGUMENT III.

In the Respondents' Brief in Opposition to the Petition for Writ of Certiorari under Argument III., Respondents attempt to couch Petitioner's question presented to this Court as not being a substantial federal question. The question presented to this Court could not be more substantially federal in its question presented. The question involves the fundamental rights of a citizen to chose the proper forum to redress his wrongs.

Under the facts of the instant case, a Florida court in Leon County, Florida improperly denied a citizen of the State of Florida the right to have his case heard in the proper court. The Florida judge has improperly labeled Petitioner's case as a case involving real property and, therefore, transferring the case to another jurisdiction. This false labeling of Petitioner's case was wrong as is shown by the pleadings and subsequent appeals made by Petitioner. (See also Appendix A-8 and A-9 of Petitioner's Original Brief). A lower state court judge cannot and shall not deny a citizen of his rights under the United States Constitution to bring his action to the proper court of his choosing. What more substantial federal question could be involved?

In Respondents' brief on page 12, they attempt to downplay the substantial federal question issue that Petitioner has brought to this Court. Respondents state:

> "All that has occurred is a ruling that the (Petitioner's) case should not have been filed in Leon County . . . " and "Petitioner is not being denied a right to seek his remedy . . . "

Petitioner is most certainly being denied his rights to seek a remedy in the proper court of his choosing. This right is being denied by the erroneous labeling of Petitioner's original complaint, as shown in the aforesaid letters reproduced in Appendix A-8 and A-9.

The Supreme Court has no common law jurisdiction and it can only exercise the jurisdiction prescribed by the Constitution. Jurisdiction exists in this case due to the state's violation of a citizen's constitutional rights. Article III, Section 2, United States Constitution.

As guardian of the Constitution, this Court has inherently been vested with jurisdiction to ensure that Petitioner has the right to have his grievance addressed in the proper court which will guarantee him the protection of his Constitutional rights.

In accordance with the above and the initial brief of Petitioner, Petitioner humbly and sincerely prays that his Court will permit him to present his case before the highest Court in the Country.

Respectfully submitted,

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